

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DAVID ALLAN GARRETSON, *et al.*,

Defendants.

Case No. 2:13-cr-029-APG-GWF

**ORDER**

This matter comes before the Court on Defendant David Garretson's ("Defendant") Motion to Suppress (#49), filed on April 8, 2013. The Court scheduled a hearing on the Motion (#49) for May 7, 2013. *See April 9, 2013 Minute Order, Doc. #52.* The Court reserved determination of whether the hearing will be an evidentiary hearing until after Plaintiff responded to the Motion (#49). *See id.* Plaintiff filed its Response (#56) on April 25, 2013. Having reviewed the Motion (#49) and the Response (#56), the Court will conduct an evidentiary hearing to determine whether officers violated the fourth amendment by entering Defendant's property through a side gate to gain visual access to the home's interior through a back window. The Court will not conduct an evidentiary hearing as regards allegedly misleading omissions from the subsequent search warrant affidavit in violation of *Franks v. Delaware*, 438 U.S. 154 (1978). Accordingly,

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1           **IT IS HEREBY ORDERED** that, as regards the officers' entry onto Defendant's property  
2 and subsequent observation inside the home through a back window, the hearing on May 7, 2013 at  
3 9:00 AM on Defendant Garretson's Motion to Suppress (#49) shall be an evidentiary hearing.

4           DATED this 30th day of April, 2013.

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7           GEORGE FOLEY, JR.  
8           United States Magistrate Judge  
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